

APPROVED BY DHBC BOARD MAY 21, 2009

BOARD OF HOUSING, BUILDINGS AND CONSTRUCTION
DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION
101 SEA HERO ROAD, SUITE 100
FRANKFORT, KENTUCKY 40601-5405

February 19, 2009
Minutes

Board Members Present:

Richard Moloney, Chair
Ethan Buell
Andrew Coyle
Debra L. Fitzgerald
Tod Allan Griffin
Bill Jagoe, Jr.
David Jansing
Robert R. Johnson
James Martin
Steve Willinghurst
Alfred Mattingly, Jr.
Craig Newbern
Dennis T. Meiman, Jr.
Jerry Taylor
Tyrone D. Tyra
Dale VanWinkle
G. Davis Boland
Carolyn Skees Franklin (Late)

Board Members Absent:

David Jackson
Charles Lewis
Guy Delius

Staff Present:

George Mann	Ken Leathers
Tim House	Bill Swope
Dawn Bellis	Rose Baker

Guests:

Russ Sanders, NFPA
Jeff Bechtold, NKBIA
Marshall Griggs, Lexington Fire Department
John Bright, KPGA
Corey Roblee, ICC
Richard Harrison, Buechel Fire Protection District
Bob Matthews, Simpson County Electrical Inspector

Chair called the meeting to order at approximately 10:00 a.m., roll called and quorum established.

New members, Debra Fitzgerald, Davis Boland, Tyrone Tyra, Dennis Meiman and Steve Willinghurst were sworn in by Rose Baker, Staff Assistant.

Chair called for review and approval of the November 20, 2008 minutes (previously distributed). **Motion:** Mr. Jagoe moved that the minutes be approved as submitted. Motion seconded by Mr. Mattingly. **Vote:** Motion passed unanimously.

Chair called for review and approval of the January 8, 2009 Special Meeting (previously distributed). **Motion:** Mr. Johnson moved that the minutes be approved as submitted. Motion seconded by Mr. Griffin. **Vote:** Motion passed unanimously.

Old Business: Chair stated that two code changes were tabled at the last meeting, code change No. KBC # 07-32 and KRC # 07-12. Both these changes were regarding the NFPA Fuel Gas Code. Chair stated that Corey Roblee, with ICC, would speak first, followed by Mr. Russ Sanders with NFPA and then Mr. Tim House, Division of Plumbing.

Mr. Roblee presented the Board with copies of his testimony which included four pages of written material. He also submitted letters supporting the International Fuel Gas Code from the American Gas Association, Alex C. Olszowy who is president of the Code Administrators Association of Kentucky, and William Bechtold with the Northern Kentucky Building Inspectors Association. Copies of Mr. Roblee's testimony and support letters are attached. Mr. Roblee pointed out to the Board that these entities supported the IFGC and that this code had been utilized since the adoption of the most recent building codes. Mr. Roblee then read most of his testimonial letter. He submitted a map (attached) which shows all the states that had adopted the IFGC. Mr. Roblee stated that the IFGC was the most comprehensive and complete code in the fuel gas industry. He stated that ICC was the world's largest provider of model codes. Mr. Roblee compared codes and stated by using NFPA 54, the Commonwealth of Kentucky will be responsible for the enforcement of ten additional NFPA standards. Those standards are not currently listed in the IFGC and they do not correlate and may even conflict with other codes already adopted by the Commonwealth. In NFPA 90A and 90B for warm air heating and air conditioning systems and the installation of AC and ventilation system are referenced in the NFPA 54. This would be duplicative and in some cases conflict with the International Mechanical Code provisions. It also references NFPA 96 which is the standard for ventilation and fire control for commercial or cooking operations. This will have overlapping and in some cases conflicting language with the mechanical code and possibly the building code. Mr. Roblee continued with several additional comparisons that he felt were conflicting or had language that conflicted with current Kentucky adopted code.

Mr. Roblee also stated that a paper submitted to the Board composed by NFPA contained many misleading remarks. ICC stands by its model codes, including the IFGC and their mission is to protect the public.

Jeff Bechtold, President of the Northern Kentucky Building Inspectors Association requested to speak. Chair recognized Mr. Bechtold. Mr. Bechtold stated that he felt this Board had just heard a loud statement from the code administrators within this state. He stated that users of this code, the people that you serve, not only the Commonwealth and our citizens as a whole, but the people that administer it, are asking that you stay with the International Fuel Gas Code. Listen to the people who administer the code.

Chair recognized Mr. Russ Sanders. Mr. Sanders is the Regional Manager for the National Fire Protection Association. Mr. Sanders had previously submitted a January 2, 2009 letter to the Board with an attachment comparing the NFPA 54 and the International Fuel Gas Code (attached). Mr. Sanders stated that this Board had adopted the NFPA 54 on February 21, 2008, that the NFPA had been used in Kentucky and is currently adopted in the state of Kentucky and had been for decades. NFPA is adopted in thirty-six states and used in all fifty states. He stated that the Board deferred, at Mr. George Mann's request, that the two committees that have jurisdiction take a look at these two items before a decision was made by this board. He stated that both committees had met, HVAC and Plumbing, and had endorsed the NFPA 54. Mr. Sanders stated that the International Fuel Gas Code is a construction code and that was all that it was intended to be. The American Gas Association had joint copyright with NFPA on NFPA 54 for many years. He stated that ICC went to the American Gas Association and got access to NFPA's intellectual property rights. That ICC then took that language, directly word for word, of NFPA 54 and created the International Fuel Gas Code. The IFGC plagiarized the NFPA 54, but only took the provisions that dealt with construction provisions, not life safety provisions. That the IFGC omitted provisions for placing appliances into service, purging piping systems and a wealth of materials that was covered in the NFPA 54 materials and handbook. The NFPA requires anyone working on gas equipment installation to be trained and knowledgeable and the IFGC has no such provision. The IFGC has no requirements for the prevention of accidental ignition and safety during repairs and handling of flammable liquids that may exist in the piping system and this is critically important to the fire service. Coverage for gas meters, back pressure and low pressure protection were not included in the IFGC. The IFGC ignores underground clearance for underground structures such as road ways. In conclusion Mr. Sanders stated that the NFPA 54 had been around for decades. It is used in every state in the United States and adopted in thirty-six. There would be no cost to the communities and the state of Kentucky to adopt NFPA 54. They (NFPA) provide free training to those jurisdictions having authority, free code books and free workbooks. He stated that he could guarantee that ICC would not provide free codes or free training. There would be zero cost to the taxpayers in the state of Kentucky.

Chair stated that there was a letter of support in members packet from the Kentucky Propane Gas Association in support of NFPA 54.

Mr. Jagoe stated that he had a question. He had heard each of them state that we are currently using their code.

Mr. Richard Harrison stated that he wanted to add a couple of thoughts before the board

got into a discussion. Chair recognized Mr. Harrison. He stated that he was the Assistant Fire Chief of the Buechel Fire Protection District and past president of the Jefferson County Fire Inspection Association. He stated that in his career he had used all the codes to date and that he still does as an inspector in his fire district. Mr. Harrison stated that the state of Kentucky has been behind the times in the code adopting process. The codes were usually three years behind the current code and stated at one point that they had a 1996 edition of the building code, a 1993 edition of the fire code, a 1999 edition of the building code with a 1996 edition of the fire code. He believed that this pattern had developed over the years. The IFGC and NFPA 54 mirror one another. The fire codes could not be enforced as they were intended to be enforced. The fire department maintains the building for the life of the building, not just the six months that it is under construction. They have an incomplete tool box. He requested that the board maintain the IFGC for the construction document that it was good for, but that the fire service needed NFPA 54 in order to do their job.

Chair recognized Mr. John Bright, past president of the Kentucky Propane Gas Association. His background in the propane industry was from the retailer and installer standpoint. He stated that he was not familiar with the IFGC and that they have not been required to use it. The state had always used the NFPA 54. If he understands it (IFGC), there are no recommended leak check procedures. This is a major concern of insurance carriers in the insurance industry. Mr. Bright recommended staying with NFPA 54 and felt their check procedures were in line with required procedures. He stated that people out in the field often have only a high school education and that they are provided a handbook that interprets the code.

Chair recognized Mr. Roblee. Mr. Roblee stated that neither of these codes address gas meters so it's a null and void point. Mr. Roblee stated that he wished to comment on a couple of points that Mr. Sanders touched on. The Building Inspectors Association and the Code Administrators Association of Kentucky are chapters of the ICC. They became chapters because they support ICC codes. He felt that it was sad to discredit all the code officials and fire officials which are members of these associations. Whether they are an NFPA or ICC chapter, they work in the state of Kentucky and for public safety. ICC makes no money from these associations. He stated that he was worried about the free code books and training. He is from the state of Ohio and is familiar with ethics reform. He could not pledge that he was going to give something and in return you will give me something. He requested that this be kept in mind. Perception is everything, especially on boards, so lets not throw out ideas on what you guys would get in return for adopting a new code. He acknowledged that Mr. Sanders is a taxpayer in the state of Kentucky and he is not.

Chair requested that attendees not get personal. Mr. Roblee stated that he was not getting personal, but wished to make a point. Chair reiterated that this discussion was about ICC and NFPA 54.

Mr. Roblee stated that the claim regarding the fuel gas code being plagiarized, he was not there when ICC extracted or whatever was done, from the National Fuel Gas Code.

However, there is nothing wrong with improving a code. If ICC takes a code and extracts the good portions and improves it, then it is a positive point. Mr. Sander's points on the comparison is pages and pages and the comparison, after the fuel gas code experts went through it, there are notes after notes after notes discrediting it as inaccurate information. It is just not accurate and I want to make that clear. He requested that the Board please keep that in mind.

Chair recognized Mr. Mattingly. Mr. Mattingly stated that he supported NFPA 54 and he supported it on behalf of the eight hundred or so members of the Kentucky Association of Plumbing, including contractors, who are the end users of this code.

Mr. Taylor interjected that also includes the engineers and architects.

Mr. Mattingly stated that the majority of the people in the state of Kentucky and the men that he employees, have been trained under NFPA 54. Atmos Energy, the gas purveyor in western Kentucky, uses NFPA 54. One of the problems that the Kentucky association members have had with the IFGC was that in installation of water heaters, the water heater had been put in using the combustion air tables, the water heater was turned down using the combustion air tables and the reason it was turned down was that it complied with NFPA 54 and did not comply with the IFGC. The NFPA 54 calls for one square inch when bringing fresh air in from the outside, one square inch for every four thousand btu's of consumption. The NFPA 54 table and the IFGC tables are the same with the exception that IFGC adds a sentence "a minimum of one hundred square inches", so that a water heater installed in a confined room, a four inch pipe brought in six inches below the ceiling and a four inch pipe brought to within six inches to the floor would have supplied adequate combustion air and would have passed. It would now require a twelve inch pipe six inches from the ceiling and within six inches of the floor. We can't do that, but plumbing inspectors in the Division of Plumbing, enforcing the code, had to turn it down. It was a considerable cost to the consumer to make the change. In regards to the letter from the American Gas Association where it implied that they were endorsing the IFGC, the last paragraph reads "The American Gas Association co-sponsors both the 2006 National Fuel Gas Code and the 2006 International Fuel Gas Code". Both will provide installers and code officials with the necessary provision to insure safe installation and inspection of gas equipment. AGA does not choose one over the other.

Motion: Mr. Mattingly made a motion that the Board adopt NFPA 54. Motion was seconded by Mr. Jansing.

Chair stated that Mr. House would need to speak regarding this matter. Mr. House stated that there were three regulatory agencies that required the NFPA 54, State Fire Marshal, Department of Insurance and the Public Service Commission. The HVAC board's recommendation was to have the Department determine who has ultimate jurisdiction within the building regarding the fuel gas code. The Public Service Commission regulates the gas companies and United Gas Companies that are inspecting gas piping and combustion air issues as well as the building inspectors. The Department of Insurance and the Fire Marshal would require LP companies to follow NFPA 54. The HVAC Board did not

decide one way or the other. They made a motion and it passed that the Department do some research and determine who ultimately has the responsibility of determine what code is within the building. The Plumbing Code Committee made a motion to accept NFPA 54 based on the number of years that NFPA has dealt with fuel gas codes versus the International Fuel Gas Code. That motion passed five to one.

Chair called for further discussion. Board member inquired if there was a letter from the Kentucky Gas Association or just a statement that they were in support and requested that it be read. The February 17, 2009, letter from Brack Marquette, Chair of the Kentucky Gas Association stated as follows: "The 150 member Kentucky Gas Association, representing the five major natural gas investor-owned distributing companies, many municipal natural gas distribution services, and affiliated member companies, conveys to the Kentucky Department of Housing, Buildings and Construction is unqualified support for the NFPA 54 Code standard. KGA understands that the Housing Board will be voting on Thursday, February 19, 2009, to return to the NFPA Code 54, and KGA encourages the board to vote in favor of that proposition."

Chair stated that there was a motion and second on the floor and called for a vote. **Vote:** Motion to adopt NFPA 54 carried with all voting yea with the exception of Mr. VanWinkle who voted nay.

New Business: Chair requested that Mr. Mann present code change KBC # 07-34 to the Board. Mr. Mann stated that this proposed change is to bring forward a Kentucky modification that clarifies the requirement for the installation of emergency powered illumination that is required along the exit discharge. **Motion:** Mr. Jansing made a motion to approve KBC # 07-34. Motion was seconded by Mr. Mattingly. **Vote:** Motion passed unanimously.

Chair recognized Ms. Bellis, General Counsel. Ms. Bellis provided a legislative update. She stated that House Bill 293, general inspection fees for the state fire marshal, has been assigned to the Appropriations and Revenue and this was signed on February 6th and posted on the 13th. House Bill 379 is the manufactured homes inspection program that complies with the federal mandate. This bill was assigned to Licensing and Occupation on the 12th and posted to a committee on the 13th. The last House Bill is regarding sprinkler inspector certification and was introduced last Friday. There are two Senate bills. Senate Bill 69 relates to boilers and has been assigned to Licensing and Occupations on the 9th. Senate Bill 155 is regarding elevator safety and licensing of contractors and elevator mechanics and has been assigned to Licensing and Occupations the 13th.

Chair stated that he wanted to update the Board on the Budget. Mr. Mattingly had requested that we have a meeting today. Laura Lynn, our budget person, is meeting with the Cabinet and was unable to attend. Chair stated that there was a serious issue with two of the Divisions that are about to go into the red, the Division of Plumbing and the Division of Building Codes Enforcement. The Department has met with the Cabinet and the Governor's Office. They will continue to meet and I will give you an update on what the Governor's Office and the Cabinet is recommending and what we are trying to do to help

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out. Chair brought up the issue of the building code books and stated that he was going to recommend staying with the 2006 code books because of the budget situation.

Bob Matthews, Electrical Inspector for Simpson County, requested clarification of an issue regarding enforcement of the code when building permits were pulled. Mr. Mann will meet with him after the meeting.

Chair called for a motion to adjourn. **Motion:** Mr. Johnson made a motion to adjourn. Motion Seconded by Mr. Boland. **Vote:** Motion passed unanimously.

Meeting adjourned at 11:15 a.m.

Next meeting: May 21, 2009